

REMARKS

This is in response to the Final Office Action mailed on January 24, 2008. Claims 1-6, 8-20 and 22-33 are pending in the application and are rejected. Claims 1, 15, 29, and 31 are presently amended. Claims 4, 5, 18, and 19 are canceled. For at least the reasons set below, Applicants assert that all claims are in condition for allowance.

Acknowledgement of Consideration of Information Considered in Prior Application

As a preliminary matter, Applicant requests that the Examiner acknowledge that the references cited under 35 U.S.C. § 120, on the earlier filing date of prior Application No. 10/307,120, filed on November 27, 2002, have been considered pursuant to MPEP § 609.02.

Applicant-Initiated Interview Summary

As an initial matter, Applicant thanks Examiner for the Applicant-initiated telephonic interview on April 1, 2008 between Examiner Raquel Alvarez and Applicant's representatives, Robert Hirning and Chris Hilberg. During the interview, participants discussed the claim amendments offered in the Response to the Final Office Action submitted by Applicant on March 20, 2008. In response to the interview, Applicants have modified the remarks below to indicate support in the Specification for the presently offered claim amendments. Additionally, the claim amendments to the independent claims have been further clarified and reworded above light of the Examiner's suggestions.

Claim Rejections – 35 U.S.C. § 103

In the Office Action, the Examiner rejected claims 1-6, 8-20, and 22-28 under 35 U.S.C. § 103(a) as being unpatentable over Owensby (U.S. Patent No. 6,647,257), in view of Official Notice; and claims 29-33 under 35 U.S.C. § 103(a) as being unpatentable over *Owensby* further in view of Bergqvist (U.S. Patent No. 7,154,056). Applicant respectfully submits that the cited references, each alone or in combination, do not teach or suggest all of the limitations of the presently amended claims. Accordingly, a *prima facie* case of obviousness has not been established for these claims.

A. The Office Action Fails to Establish Proper Official Notice

As an initial matter, Applicant reiterates a traversal to the Official Notice within the Office Action. Particularly, Applicant submits that as of the priority date of the present application, November 27, 2001, it was not old and well-known in the advertisements related arts to “provide access to sites based on user[] preferences and to monitor how and by what means the information is being accessed by the user.” This broad statement does not adequately explain how such a feature was “old and well-known”, nor does it explain how such a feature could teach or suggest the claimed limitation of updating a location-unique user profile “based on access to advertisements...and device access of network sites indicative of user preferences.” As stated in MPEP 2144.03, it is not appropriate for the Examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of “instant and unquestionable demonstration as being well-known.”

Further, the clarification offered by the Office Action in Page 5 that “the Official Notice taken was merely to show updating users preferences based on network sites visited by the user was well known” appears to be of a different scope than the Official Notice cited above. Moreover, the examples provided in the Office Action to clarify the scope of the Official Notice do not appear to be relevant to the text recited within the amended claims. Applicant respectfully requests that the Examiner provide additional explanation and specific citation to a prior art reference if the Examiner maintains that this claimed limitation was well-known in the art.

B. The Combination of References Fails to Teach or Suggest the Limitations of the Amended Claims

Applicant has amended the claims to more clearly recite the steps taken when receiving a signal from the mobile wireless device. Specifically, Claims 1 and 31 are amended to indicate that the signal received from the mobile wireless device “comprises one of a ping and a call, wherein the delivery framework is configured to receive a ping signal and is configured to receive a call signal.” Independent claims 15, and 29 are similarly amended to recite that the code for receiving the signal and the mobile wireless device respectfully employ a ping signal and a call signal. Thus, this amended language indicates that the signal sent and received may be either of these signal types, while the underlying framework or mobile device is capable of

processing both of these signal types. Support for these amendments are present in at least Paragraphs 0009-0010, 0028, and Claims 4-5 of the originally filed specification.

In contrast, *Owensby* discloses only a “call signal”, requiring a call to be established between the phone and the call destination before any data is “generated and included with the call signal” (*See Owensby*, Col. 12, lines 4-10). Moreover, the *Owensby* disclosure states that advertisements are “targeted to the subscriber on the basis of the Wireless Mobile Location Data included with the call signal”, and that “location data identifies the real-time, physical location of the wireless mobile terminal at the time that the wireless mobile communication is initiated or received.” (Col. 4, lines 1-3, 46-49.) Applicant submits that no teaching or suggestion is made in *Owensby* that a “ping” signal may be used to send a signal containing data relevant to the identifier, state, or location of the mobile device.

Similarly, the claims have been amended to recite that the transmission of advertisements to a mobile wireless device is independent of communication initiated from the device. Support for this amendment is present in at least Paragraphs 0009, 0021, 0033, and 0041 of the originally filed specification. Thus, the claimed invention allows advertisements to be “pushed” to the mobile devices independent of when a call or other communication is initiated by the mobile device user. In contrast, *Owensby* discloses a system in which a call must be first established before delivering the advertisements. Its targeted messages are chosen “at the time that a wireless mobile communication is initiated or received by a wireless mobile terminal,” enabling the system to “insert audio messages into the parked wireless mobile communication.” (Col. 4, lines 39-43, and Col. 8, lines 26-28).

Next, the claims are amended to clarify that the “state” of the mobile wireless device indicates the availability of the mobile wireless device to receive context-sensitive advertising. The Office Action has alleged that *Owensby* teaches this feature by “identifying the mobile ID and verifying the direct call signal communication”. However, as is evident from the plain meaning of this language, this unrelated feature does not teach or suggest indicating availability of a device to receive advertising independent of a call.

Applicant also submits that the amended feature reciting updating the profile to include “mobile wireless device location at time of access to advertisements” is not taught or suggested

in the *Owensby* reference. Support for this amendment is present in at least Paragraphs 0022-0024, 0026-0027, 0039, and 0046. Although the Office Action relies on *Owensby* to suggest tracking advertisement responses and tracking the location of the user during a call, the cited reference does not teach or suggest tracking the location of the advertisement access and responses, i.e., where the user responds to the ads, in a location-unique user profile.

Finally, Applicant submits *Owensby* does not teach the step in the amended claims of:

enabling the user to switch devices and location-unique user profiles, wherein one or more location-unique user profiles are associated with the user, wherein the mobile wireless device supports selecting the location-unique user profile from one of a plurality of users, and wherein each location-unique user profile is accessible via a plurality of mobile wireless devices;

Support for this amendment is present in at least Paragraphs 0022-0028, 0032, 0036, 0039, and 0046. As this amendment recites, the claimed invention enables use of multiple location-unique user profiles by a user; the ability to have multiple users for a single mobile wireless device; and the ability for a plurality of devices to access these user profiles. As a contrast, *Owensby* merely teaches associating a single profile with the mobile device, according to commonly known methods in the art. Particularly, in Col. 1, lines 65-Col. 2, line 10, *Owensby* discusses the use of existing methods to identify a subscriber according to the mobile device's identification code, because "typically the user will be the subscriber". This disclosure suggests the use of only one profile per phone to track a user. Thus, the system disclosed in *Owensby* does not teach or suggest the ability to enable multiple users to have multiple profiles, nor the use of profiles which may be applied throughout multiple mobile wireless devices.

C. The *Bergqvist* Reference Fails to Teach or Suggest the Location Alias Feature of the Amended Claims and is not Analogous Prior Art

Applicant also respectfully reiterates the objections previously provided to the combination of *Bergqvist* and *Owensby* for Claims 29, 31, 32, and 33. This combination of references does not teach or suggest the use of "a location alias selected by the user from a plurality of available aliases" as claimed. Instead, the Office Action states that the *Bergqvist* reference discloses receiving information "based on a user's characteristics or profile such as a user's selected alias." An alias associated with a user, i.e., a user alias, does not teach or suggest the use of an alias associated with a location, i.e., a location alias. Moreover, *Bergqvist* does not

pertain to the particular problem for which the present invention is concerned, namely associating an alias with a location independent of the user's characteristics or profile, and therefore is not analogous art to the claimed invention.

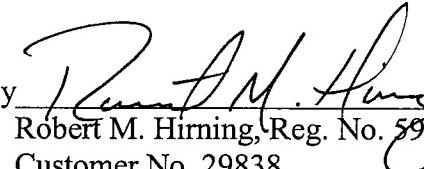
Accordingly, because each and every limitation of amended claims 1, 15, 29, and 31 is neither taught nor suggested by the cited prior art, a *prima facie* case of obviousness has not been established and the rejected claims are allowable. Further, because claims 2-14, 16-28, 30, and 32-33 depend either directly or indirectly from independent claims 1, 15, and 29, these dependent claims are also allowable as depending from allowable claims. Applicant respectfully requests that the rejection of all claims under § 103(a) be withdrawn.

CONCLUSION

In light of the above remarks, and amendments, Applicants respectfully request removal of the objections and rejections, and for favorable action and allowance of the application. In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at 612-607-7345. If any fees are due in connection with the filing of this paper, then the Commissioner is authorized to charge such fees including fees for any extension of time, to Deposit Account No. 50-1901 (Reference No. 60021-376302).

Respectfully submitted,

By


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